

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
MOBILE RELAY ASSOCIATES, INC.)	FCC File No. A023000
)	
Petition for Reconsideration of Grant of License)	
for Station WPPF353, Poway, California)	

ORDER ON RECONSIDERATION

Adopted: April 3, 2000

Released: April 6, 2000

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. We have before us a petition submitted by Mobile Relay Associates, Inc. (Mobile Relay) requesting reconsideration of a decision by the Public Safety and Private Wireless Division (Division), Licensing and Technical Analysis Branch (Branch) regarding the grant of an Industrial/Business Radio Service license to Mobile Relay for Station WPPF353, Poway, California.¹ For the reasons stated below, the petition is dismissed.

2. The Branch granted the subject license on November 22, 1999. On December 27, 1999, we received a petition requesting that the Division reconsider the effective radiated power (ERP) authorized by the subject license.²

3. Section 405 of the Communications Act, as amended (Act), sets forth the requirements that a petitioner must satisfy before we may consider a petition for reconsideration. Section 405(a) of the Act, as implemented by Section 1.106(f) of the Commission's Rules, requires a petition for reconsideration to be filed within thirty days from the release date of the Commission's action.³ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.⁴ As stated above, the subject application was granted on November 22, 1999. Thus, pursuant to Section 1.4(b)(5) of the Commission's Rules, Monday, November 22, 1999, is the day to be used in the computation of the thirty-

¹ Mobile Relay Associates, Inc. Petition for Reconsideration.

² From a review of our records, it appears that the Postal Service delivered the petition to the Gettysburg facility on Friday, December 24, which was a federal holiday because Christmas Day fell on a Saturday in 1999. *See* 47 C.F.R. § 1.4(e)(1) note. As a result, it was not deemed to be received by the FCC until the next business day, which was Monday, December 27, 1999. *Cf.* 47 C.F.R. § 0.401(b)(2).

³ 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

⁴ 47 C.F.R. § 1.4.

day period.⁵ Therefore, the first day of the thirty-day period was November 23, 1999, and the last day for filing a petition for reconsideration was December 22, 1999.

4. Mobile Relay's petition for reconsideration was received on December 27, 1999, at the Commission's Gettysburg, Pennsylvania, office. Therefore, we find that the petition was filed late. Moreover, we note that the Commission has consistently held that it is without authority to extend or waive the statutory thirty-day filing period for filing petitions for reconsideration specified in Section 405(a) of the Communications Act.⁶ The filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.⁷ Consequently, we conclude that Mobile Relay's petition for reconsideration must be dismissed as untimely filed.⁸

3. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Mobile Relay Associates, Inc., on December 27, 1999, IS DISMISSED.

4. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁵ Where a non-rulemaking document is neither published in the Federal Register nor released, and where a public notice is not released, the date appearing on the document mailed to the persons affected by the action is the day to be used in the computation of the thirty-day period. 47 C.F.R. § 1.4(b)(5). In this instance, that would be the date appearing on the station license.

⁶ See *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also Petition for Amendment of the Commission's Rules to Establish First and Second Class Radiotelephone Operator Licenses, *Order*, 10 FCC Rcd 3196 (1995).

⁷ See, e.g., *Panola Broadcasting Co., Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); *Metromedia, Inc., Memorandum Opinion and Order*, 56 FCC 2d 909, 909-10 (1975); *In the Matter of Memorandum of Agreement Between the Federal Communications Commission and Elkins Institute, Inc., Order on Reconsideration*, 14 FCC Rcd 5080, 5081 ¶3 (WTB 1999) (*Elkins*).

⁸ In addition, we note that the petition was filed in the wrong location. The Commission's Rules require that petitions for reconsideration be filed with the Office of the Secretary in Washington, D.C., 47 C.F.R. § 1.106(i), and warn persons filing documents with the Commission that filings submitted to the wrong location will not be processed. 47 C.F.R. § 0.401; see also 47 C.F.R. § 1.7 ("documents are considered to be filed with the Commission upon their receipt at the location designated by the Commission"). Thus, even if the petition were timely, it would be subject to dismissal as improperly filed. See *Elkins*, 14 FCC Rcd at 8041 ¶ 3; *Columbia Millimeter Communications, LP, Order on Reconsideration*, 14 FCC Rcd 2782, 2784-85 ¶ 9 (WTB PSPWD 1999), *recon. pending* (filed Mar. 10, 1999).

